

Rule 5011-1

WITHDRAWAL OF REFERENCE

(a) *Briefing requirements; generally.*

(1) Every written (i) motion for withdrawal of the reference of a case or proceeding pursuant to 28 U.S.C. § 157(b)(5) or (d), (ii) response thereto, and (iii) any other motion, application, objection, or response that statute, the Federal Rules of Bankruptcy Procedure, these rules, an order, or the circumstances require be filed with the Clerk of this Court, but be heard and determined by the District Court, shall be accompanied upon filing and service by a legal memorandum with citation of authorities in support of, or in opposition to, the relief requested.

(2) Absent prior permission of the District Court, no party shall file any legal memorandum in excess of twenty (20) pages in length.

(3) The motions and matters within the scope of this rule shall not be deemed complete for purposes of transmittal to the Clerk of the District Court for hearing and determination until the parties have complied with the briefing requirements of this rule.

(b) *Motions for withdrawal of the reference; special provisions.*

(1) A motion for withdrawal, in whole or in part, of the reference of a case shall be filed with the Clerk not later than twenty-one (21) days after the date of the notice of the meeting of creditors mandated by 11 U.S.C. § 341 and Fed. R. Bankr. P. 2003(a). Parties in interest without notice or without actual knowledge of the pendency of the case may file a motion for withdrawal of the reference not later than twenty-one (21) days after having acquired actual knowledge of the pendency of the case.

(2) A motion for withdrawal of the reference of a proceeding or contested matter arising in, under or related to a case that is a subject of the Order of General Reference must be filed with the Clerk not later than thirty (30) days after the filing of the initial pleading or other paper commencing the proceeding or contested matter. The United States or an officer

or agency thereof shall file a motion for withdrawal of the reference no later than thirty-five (35) days after the filing of the initial pleading or other paper commencing the proceeding or contested matter. A motion for withdrawal of a proceeding or contested matter must specifically identify the proceeding or contested matter to be withdrawn, setting forth the exact style, title and adversary number, where applicable.

(3) A motion for withdrawal of a proceeding or contested matter shall be served together with a legal memorandum on counsel of record for all parties to the proceeding or contested matter or, if a party has no counsel, on the party, and on counsel of record for the debtor, the debtor, and the United States Trustee. The opposing parties shall have fourteen (14) days after the entry of the motion on the docket to file a responsive pleading and legal memorandum with the Clerk.

(4) After expiration of the time allowed for a response, the Clerk shall transmit to the Clerk of the District Court copies of the motion and legal memorandum, response and legal memorandum, if any, and such other pleadings as the parties request in the motion and in the response, if any.

(5) Until and unless the Court or the District Court orders otherwise, the Court shall continue to hear the case or proceeding while the motion for withdrawal is under consideration in the District Court.

(6) Upon entry of an order by the District Court withdrawing the reference, the Clerk shall forward a copy of the entire case file or proceeding file to the Clerk of the District Court.

Notes of Advisory Committee

2004 Amendment

This amendment corrects the Bankruptcy Rules citation to that of the currently used citation.

1997 Amendment

This amendment conforms the existing Local Rules to the uniform numbering system prescribed by the Judicial Conference of the United States and to the model system suggested and approved by the Advisory Committee on Bankruptcy Rules of the Judicial Conference's Committee on Rules of Practice and Procedure. In renumbering the Local Rules to conform to the uniform numbering system, no change in substance is intended. This amendment was effective on April 15, 1997.

This rule was formerly Local Rule 1.05. The Advisory Committee Notes to the superseded rules may be helpful in interpreting and applying the current rules.

1995 Amendment

The amendment to Local Rule 1.05 to delete the term "brief" when used in conjunction with "legal memorandum" as redundant is stylistic as is the addition of term "contested matter" where the term "proceeding" is used. No substantive change is intended.

Local Rule 1.05 (b) (2) has been amended to specify that a motion for withdrawal of a proceeding or contested matter must be filed with the Clerk not later than thirty (30) days, or thirty-five (35) days in the case of the federal government, after the filing of the initial pleading or other paper commencing the proceeding or contested matter. In adversary proceedings, this corresponds to the time an answer or motion is due pursuant to Fed. R. Bankr. P. 7012(a). The amendment makes clear that motions to withdraw the reference of contested matters must be filed within the same period despite the inapplicability of Fed. R. Bankr. P. 7012 to contested matter.

Local Rule 1.05 (b) (3) has been amended to specify that a motion for withdrawal of a proceeding or contested matter shall be served on all parties to the proceeding or contested matter or, if a party has no counsel, on the party, in addition to counsel of record for the debtor, the debtor, and the United States Trustee.

These amendments were effective on February 15, 1995.

1993 Amendment

This amendment added a requirement for the filing of briefs or legal memoranda in certain circumstances to harmonize the practice in the Bankruptcy Court with the practice in the District Court and to facilitate the hearing and determination in the District Court of motions for withdrawal of the reference, objections to proposed findings of fact and conclusions of law in non-core proceedings, and other motions, applications, objections, and the like that are filed in the Bankruptcy Court but heard and determined in the District Court. The amendment was effective August 15, 1993.